



Practitioner's Docket No. U 014721-8

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Ghulam Nabi QAZI, et al.  
Serial No.: 10/621,038 Group No.: 1655  
Filed: July 16, 2003 Examiner: M.V. Meller  
For: PLANT BASED AGENTS AS BIOAVAILABILITY / BIOEFFICACY ENHANCERS FOR  
DRUGS AND NUTRACEUTICALS

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

AMENDMENT TRANSMITTAL

1. Transmitted herewith is an amendment for this application.

STATUS

2. The application is qualified as  
☐ a small entity.  
☒ other than a small entity.

04/09/2007 EWAILEI 00000007 10621038  
01 FC:1252 450.00 OP

CERTIFICATION UNDER 37 C.F.R. 1.8(a) and 1.10\*

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37 C.F.R. 1.8(a)

37 C.F.R. 1.10\*

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TRANSMISSION

- ☐ transmitted by facsimile to the Patent and Trademark Office. to (571)-273-8300

Date: April 5, 2007

Signature

Clifford J. Mass  
(type or print name of person certifying)

Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation. Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

## EXTENSION OF TERM

**NOTE:** "Extension of Time in Patent Cases (Supplement Amendments) — If a timely and complete response has been filed after a Non-Final Office Action, an extension of time is not required to permit filing and/or entry of an additional amendment after expiration of the shortened statutory period.

*If a timely response has been filed after a Final Office Action, an extension of time is required to permit filing and/or entry of a Notice of Appeal or filing and/or entry of an additional amendment after expiration of the shortened statutory period unless the timely-filed response placed the application in condition for allowance. Of course, if a Notice of Appeal has been filed within the shortened statutory period, the period has ceased to run."* Notice of December 10, 1985 (1061 O.G. 34-35).

**NOTE:** See 37 C.F.R. §1.645 for extensions of time in interference proceedings, and 37 C.F.R. § 1.550(c) for extensions of time in reexamination proceedings.

**NOTE:** 37 C.F.R. § 1.704(b)". . . an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph."

3. The proceedings herein are for a patent application and the provisions of 37 C.F.R. 1.136 apply for a term of up to six (6) months.

*(complete (a) or (b), as applicable)*

- (a) ☒ Applicant petitions for an extension of time under 37 C.F.R. 1.136 (fees: 37 C.F.R. 1.17(a)(1)-(4)) for the total number of months checked below:

	<u>Extension (months)</u>	<u>Fee for other than small entity</u>	<u>Fee for small entity</u>
<input type="checkbox"/>	one month	\$ 120.00	\$ 60.00
<input checked="" type="checkbox"/>	two months	\$ 450.00	\$ 225.00
<input type="checkbox"/>	three months	\$ 1,020.00	\$ 510.00
<input type="checkbox"/>	four months	\$ 1,590.00	\$ 795.00
<input type="checkbox"/>	five months	\$ 2,160.00	\$ 1,080.00

Fee: \$ 450.00

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

- ☐ An extension for \_\_\_\_\_ months has already been secured. The fee paid therefor of \$ \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ \_\_\_\_\_

**OR**

- (b) ☐ Applicant believes that no extension of term is required. However, this is a conditional petition being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

### FEE FOR CLAIMS

4. The fee for claims (37 C.F.R. 1.16(b)-(d)) has been calculated as shown below:

(Col. 1)		(Col. 2)	(Col. 3)	SMALL ENTITY		OTHER THAN A SMALL ENTITY		
Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Addit. Fee	OR	Rate	Addit. Fee
Total	* Minus	**	=	x \$ 25	\$		x \$ 50=	\$
Indep.	* Minus	***	=	x \$ 100	\$		x \$ 200	\$
<input type="checkbox"/> First Presentation of Multiple Dependent Claims				+ \$180=	\$		+ \$360=	\$
Total Addit. Fee					\$ _____	OR	Total Addit. Fee	\$ _____

\* If the entry in Col. 1 is less than the entry in Col. 2, write "O" in Col. 3,

\*\* If the "Highest No. Previously Paid For" IN THIS SPACE is less than 20, enter "20".

\*\*\* If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest No. Previously Paid For" (Total or Indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

**WARNING:** "After final rejection or action (§ 1.113) amendments may be made canceling claims or complying with any requirement of form which has been made." 37 C.F.R. 1.116(a) (emphasis added).

### FEE PAYMENT

5. ☐ No additional fee for claims is required.

OR

- ☐ Total additional fee for claims required \$ \_\_\_\_\_
- ☒ Attached is a check in the sum of \$ 450.00.
- ☐ Charge Account No. 12-0425 the sum of \$ \_\_\_\_\_  
A duplicate of this transmittal is attached.

### FEE DEFICIENCY OR OVERPAYMENT

*NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, (1065 O.G. 31-33).*

6. ☒ If any additional extension and/or fee is required, charge Account No. 12-0425.

AND/OR

- ☒ If any additional fee for claims is required, charge Account No. 12-0425

AND/OR

- ☒ Refund any overpayment to Account No. 12-0425.

Reg. No.: 25858

Tel. No.: (212) 708-1930

SIGNATURE OF PRACTITIONER

Clifford J. Mass

(type or print name of practitioner)

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New York, N.Y. 10023

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00140

PATENT TRADEMARK OFFICE



PATENT

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Attorney Docket No: U 014721-8

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Sir:

RESPONSE TO OFFICIAL ACTION AND/OR REQUEST FOR NEW ACTION

In response to the Official Action of 5 January 2007, wherein the Examiner has contended that the reply filed 22 November 2006 was not fully responsive to the prior Office Action because Applicants did not pick a specific fluoroquinolone, Applicants respectfully call

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37 C.F.R. 1.8(a)

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37 C.F.R. 1.10\*

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Date: April 5, 2007

Signature

Clifford J. Mass

(type or print name of person certifying)

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"Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

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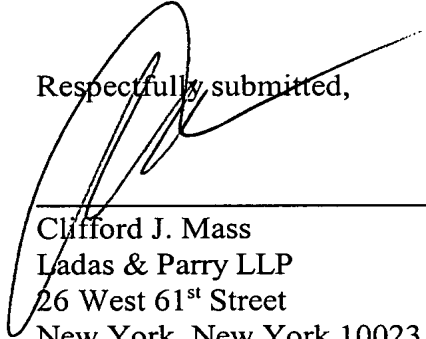
the Examiner's attention to the original request for a species election in the Official Action of 9 March 2006, wherein the Examiner requested Applicants "to elect a specific **drugs/nutraceuticals**". Applicants elected "antibiotics", which was fully responsive to the original requirement. Applicants have since been advised in successive actions that they have to narrow their election in a manner that, respectfully, could not have been foreseen from the wording of the original requirement.

Insofar as the requirement for a species election has morphed into a requirement that is different from, and far more narrow than, the original requirement, Applicants respectfully request that they be allowed to elect the species that they would have elected if the requirement had been clear from the outset. In this connection, Applicants hereby respectfully elect cyclosporin and advise that claims 1-4, 20 and 28 read on the elected species. Alternatively, Applicants respectfully request that the official actions of 9 March 2006, 31 October 2006 and 5 January 2007 be vacated and replaced with a new action with a requirement for a species election that is clear on its face.

Applicants herein reaffirm their election of the composition claims 1-28.

Applicants have now fully responded to the outstanding Official Action and respectfully request an early action on the merits of the elected claims and species.

Respectfully submitted,



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